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**Law**

**THE AIR FORCE PROCUREMENT FRAUD  
REMEDIES PROGRAM**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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This instruction implements AFPD 51-11, *Coordination of Remedies for Fraud and Corruption Related to Air Force Procurement Matters*, by providing guidance for pursuing remedies in significant procurement fraud cases and other contractor responsibility matters. It implements Department of Defense Directive (DoDD) 7050.5, *Coordination of Remedies for Fraud and Corruption Related to Procurement Activities*, June 7, 1989; DoDD 5405.2, *Release of Official Information in Litigation and Testimony by DoD Personnel as Witnesses*, July 23, 1985; and DoDD 5505.5, *Implementation of the Program Fraud Civil Remedies Act*, August 30, 1988. It is not applicable to the Air National Guard. Attachment 1 is a glossary of abbreviations, acronyms, and terms.

**SUMMARY OF REVISIONS**

This issuance aligns the instruction with AFPD 51-11. It shifts overall responsibility for managing the Air Force Procurement Fraud Remedies Program from the Air Force Office of Complaints, Remedies, and Oversight (SAF/IGQ) to the Office of the Assistant Air Force General Counsel for Acquisition (SAF/GCQ); adds additional responsibilities for major command (MAJCOM), field operating agency (FOA), and direct reporting unit (DRU) commanders, installation commanders, and the Air Force Office of Special Investigations (AFOSI) in the coordination of remedies; improves the process for the coordination of remedies with the Defense Logistics Agency (DLA); establishes responsibilities and procedures for handling qui tam actions, voluntary disclosure cases, suspension and debarment actions, and safety alerts; provides more specific guidance on the pursuit of remedies under the Program Fraud Civil Remedies Act of 1986 (PFCRA); updates the definitions of terms; and provides an updated remedies plan format.

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## Chapter 1

### PURSUIT OF REMEDIES AND PREPARATION OF REMEDIES PLANS

#### 1.1. Responsibilities and Authorities:

##### 1.1.1. SAF/GCQ will:

- Serve as the point of contact for liaison among the Secretary of the Air Force, Air Staff offices, other DoD entities, the Department of Justice (DoJ), and other federal or state departments, agencies, or organizations in the coordination of remedies for significant procurement fraud cases (attachment 2).
- Provide to DoJ all recommendations concerning the initiation, amendment, settlement, or withdrawal of all civil actions filed by the United States which allege procurement fraud or corruption and involve the Air Force with copies to the concerned MAJCOM, FOA, or DRU acquisition fraud counsel (AFC) and AFOSI. This includes providing recommendations concerning all global settlements of actions alleging procurement fraud and involving the Air Force.
- Establish policy for the Air Force Procurement Fraud Remedies Program.
- Measure and evaluate the overall effectiveness of the Air Force Procurement Fraud Remedies Program.
- Determine whether each remedies plan submitted by a MAJCOM, FOA, or DRU AFC is "Acceptable" or "Unacceptable."
- Provide MAJCOM, FOA, or DRU AFCs with coordinated Secretariat comments to remedies plans for appropriate action or consideration in the next remedies plan submission.
- Serve as the release authority for remedies plans circulated outside the Air Force.
- Assist the Air Education and Training Command (AETC); MAJCOM, FOA, and DRU commanders; AFOSI; and other investigative organizations in providing procurement fraud-related education.
- Serve as the point of contact and approving authority for all litigation requests from private parties in qui tam actions involving the Air Force in which the government has declined to intervene.

1.1.2. MAJCOM, FOA, and DRU commanders will ensure personnel under their command have adequate education and training in procurement fraud matters.

1.1.3. MAJCOM, FOA, and DRU staff judge advocates (SJA) will administer the MAJCOM, FOA, and DRU procurement fraud remedies program and may appoint one or more MAJCOM, FOA, or DRU AFCs to assist in fulfilling this responsibility.

##### 1.1.4. MAJCOM, FOA, and DRU AFCs will:

1.1.4.1. Coordinate with SAF/GCQ and installation AFCs or commanders in all significant procurement fraud cases.

1.1.4.2. Review remedies plans prepared by subordinate units to ensure compliance with the standards established by this Instruction.

1.1.4.3. Provide feedback to installation AFCs as to the quality of each submitted remedies plan, including requests for clarification or additional information for appropriate action or consideration in the next remedies plan submission.

1.1.4.4. Forward timely, acceptable remedies plans prepared by subordinate units in accordance with the standards established by this instruction to SAF/GCQ and in the format provided in attachment 3.

1.1.4.5. Provide timely legal reviews and recommendations concerning settlement of procurement fraud cases which involve their installations, programs, or facilities when requested by SAF/GCQ. Such recommendations should include input from each of the following, if applicable:

1.1.4.5.1. Lead investigative agent.

1.1.4.5.2. Affected program office.

1.1.4.5.3. DLA Fraud Counsel.

1.1.4.5.4. Contracting officer.

1.1.4.5.5. Defense Contract Audit Agency (DCAA).

1.1.5. Installation commanders will:

1.1.5.1. Ensure that personnel under their command have adequate education and training in procurement fraud matters.

1.1.5.2. Refer to AFOSI all alleged criminal offenses within AFOSI's investigative responsibilities.

1.1.5.3. Provide testing support to AFOSI and other investigative agencies in significant procurement fraud cases involving allegations of defective products or product substitution concerning his or her installation. The concerned procurement program will bear all reasonable costs associated with such support.

1.1.6. Installation SJAs will:

1.1.6.1. Administer the installation procurement fraud remedies program and may appoint one or more AFCs to assist in fulfilling this responsibility.

1.1.6.2. Ensure timely preparation of an acceptable remedies plan for each significant procurement fraud case involving his or her installation.

1.1.6.3. Support DoJ in criminal and civil proceedings arising from procurement fraud cases to the maximum extent practicable.

1.1.6.4. Ensure the confidentiality of procurement fraud investigations and controlled access to AFOSI investigative materials by permitting disclosure of such investigations and materials only with the consent of AFOSI.

1.1.7. Installation AFCs will:

1.1.7.1. Prepare a comprehensive remedies plan using the format in attachment 3 and in accordance with the standards established by this Instruction for each significant procurement fraud case.

1.1.7.2. Forward timely, acceptable remedies plans to their MAJCOM, FOA, or DRU AFCs.

1.1.7.3. Provide timely legal reviews and recommendations concerning settlement of all procurement fraud cases involving their installations, programs, or facilities when requested by their MAJCOM, FOA, or DRU AFCs. Such recommendations should include input from each of the following, if applicable:

1.1.7.3.1. Lead investigative agent.

1.1.7.3.2. Affected program office.

1.1.7.3.3. DLA Fraud Counsel.

1.1.7.3.4. Contracting officer.

1.1.7.3.5. DCAA.

1.1.7.4. Provide timely advice and support to DoJ and AFOSI agents in all procurement fraud cases on a continuing basis throughout the investigation. Such advice and support includes, but is not limited to, a detailed assessment of the contractual and evidentiary issues which may affect the successful criminal and civil prosecution of the case and the identification of applicable criminal, civil, contractual, and administrative remedies.

1.1.7.5. Advise investigating agents on all civil, contractual, or administrative actions proposed during the pendency of a criminal investigation or prosecution.

1.1.7.6. Coordinate with the appropriate DLA Fraud Counsel in all procurement fraud cases that involve Air Force contracts which are administered by DLA.

1.1.7.7. Prepare victim impact statements for use in sentencing proceedings when requested by DoJ.

1.1.7.8. Assist SAF/GCQ and their respective MAJCOM, FOA, and DRU AFCs in determining appropriate fund cites for the return of recoveries in procurement fraud cases to the affected Air Force installations or programs.

1.1.7.9. When feasible, accompany investigative agents when a final criminal or civil prosecutive decision is sought from DoJ in a significant procurement fraud case.

1.1.8. AFOSI will:

1.1.8.1. Notify SAF/GCQ immediately if unsure as to the appropriate AFC for any significant procurement fraud case.

1.1.8.2. Advise installation AFCs in the preparation of remedies plans for each significant procurement fraud case and the provision of recommendations concerning settlement of procurement fraud cases.

1.1.8.3. Advise MAJCOM, FOA, or DRU AFCs in the review of remedies plans.

1.1.8.4. Provide SAF/GCQ, the concerned installation AFCs, and the concerned contracting officer with a court-certified copy of any indictment, conviction, or civil judgment against the subject of an Air Force procurement fraud case in which AFOSI is involved within 30 working days of such action.

1.1.8.5. Except as provided for in 1.1.8.5.1, 1.1.8.5.2, and 1.1.8.5.3, provide copies of all Case Status Reports (CSR) to SAF/GCQ and the concerned installation AFC in each procurement fraud case.

1.1.8.5.1. The concerned installation AFC will receive all CSRs for each procurement fraud case unless the provision of such reports raises serious operational security concerns as determined by the concerned AFOSI Region Commander on a nondelegable basis.

1.1.8.5.2. AFOSI will provide all CSRs to SAF/GCQ and the concerned installation AFC to the maximum extent permitted by the lead investigative agency if such agency is not AFOSI.

1.1.8.5.3. AFOSI will contact SAF/GCQ immediately if directed by DoJ or another investigative agency not to provide CSRs for any particular procurement fraud case. SAF/GCQ will resolve the matter with DoJ, or the other investigative agency, should the nondisclosure raise significant concerns to the Air Force.

1.1.8.6. Consult with the concerned installation AFC in all procurement fraud cases on a continuing basis throughout the investigation, except as provided for in 1.1.8.6.4. Such consultation and AFC support includes, but is not limited to, a detailed assessment of the contractual and evidentiary issues which may affect the successful criminal or civil prosecution of the case and identification of potentially applicable criminal, civil, contractual, and administrative remedies.

1.1.8.6.1. Except as provided for in 1.1.8.6.2, and 1.1.8.6.3, the concerned installation AFC will provide this advice and support.

1.1.8.6.2. Either the concerned installation AFC or an attorney for the administering agency or department may provide this advice and support in cases where the alleged or confirmed fraud occurred during the performance of the contract at issue and another federal agency or department administers that contract. In such cases where someone other than the installation AFC provides this advice and support, AFOSI will notify the installation AFC immediately as to the name, organization, and telephone number of that individual.

1.1.8.6.3. The concerned MAJCOM, FOA, or DRU AFC will provide this advice and support in instances where the concerned AFOSI Region Commander and the AFOSI SJA jointly determine and inform SAF/GCQ, in writing, that obtaining such advice and support from the installation AFC would impede the successful criminal or civil investigation or prosecution of a case.

1.1.8.6.4. AFC advice and support is not required in instances where the AFOSI Region Commander and the AFOSI SJA jointly determine and inform SAF/GCQ, in writing, that obtaining such advice and support would impede the successful criminal or civil investigation or prosecution of a case.

1.1.8.6.4.1. In such cases, SAF/GCQ will notify the concerned MAJCOM, FOA, or DRU SJA, unless the investigation involves senior MAJCOM, FOA, or DRU personnel.

1.1.8.6.4.2. In such cases involving senior MAJCOM, FOA, or DRU personnel, SAF/GCQ will consult with AFOSI to determine appropriate action.

1.1.8.6.5. Obtaining advice and support from the concerned installation AFC; MAJCOM, FOA, or DRU AFC; or any other federal agency or department attorney does not constitute a requirement of command approval before coordination with DoJ.

1.1.8.7. Advise prosecutive authorities as to any known DoD office concerned about the adverse impact on a DoD mission that the prosecution of a case would create.

1.1.8.8. Advise the concerned installation AFC as to any adverse impact that contractual or administrative remedies being considered would have on an ongoing criminal investigation.

1.1.8.9. Refer all global or civil settlement offers from DoJ to SAF/GCQ. Only SAF/GCQ has the authority to recommend acceptance, modification, or rejection of such settlement offers on behalf of the Air Force.

1.1.9. The Contract Support Division (SAF/AQCX) of the Office of the Deputy Assistant Secretary for Contracting, Assistant Secretary of the Air Force for Acquisition will review and submit timely comments on each remedies plan provided by SAF/GCQ.

## **1.2. Procedures:**

### **1.2.1. Opening of remedies plans.**

1.2.1.1. Except as provided for in 1.2.1.5, remedies plans will open when either SAF/GCQ or the concerned installation commander receives notification of a significant procurement fraud case through a CSR.

1.2.1.1.1. Except as set forth in 1.2.1.1.2, the initial CSR from AFOSI, and all subsequent CSRs, must include the following elements, if known:

- File number.
- Date.
- Name, unit, and telephone number of the reporting agent.
- Status and purpose of the report.
- Subject.
- Summary of alleged offenses.
- Affected contract numbers.
- Affected programs.
- Estimated dollar loss to the government.
- Lead investigative agency and office.
- Whether the allegations involve another service component or DoD entity.
- Any restrictions on the discussion of case information with those charged with the evaluation and implementation of remedies.

1.2.1.1.2. In cases where the concerned AFOSI Region Commander or the head of another criminal investigative organization determines that the release of certain information would jeopardize the successful prosecution of any case if released, the initial CSR will not contain such information.

1.2.1.2. When an installation commander opens a remedies plan, he or she must coordinate with SAF/GCQ through the appropriate MAJCOM, FOA, or DRU AFC.

1.2.1.3. SAF/GCQ will assign an appropriate suspense date for the preparation of each initial remedies plan. This suspense date is generally four months from the date on which SAF/GCQ or the installation AFC identifies the matter as a significant procurement fraud case.



1.2.1.4. Bringing a procurement fraud case to the attention of a DLA Fraud Counsel or other federal agency or department attorney does not relieve AFOSI from its responsibility to also inform SAF/GCQ and the concerned installation AFC of the case.

1.2.1.5. SAF/GCQ will delay the opening of a remedies plan if the concerned AFOSI Region Commander or the head of another criminal investigative agency determines and informs SAF/GCQ, in writing, that opening a remedies plan immediately would jeopardize the successful prosecution of the case.

1.2.1.5.1. The concerned AFOSI Region Commander must provide SAF/GCQ with a written explanation of why the immediate opening of a remedies plan would jeopardize the successful prosecution of a case.

1.2.1.5.2. SAF/GCQ will place such cases on "HOLD" status until those initial concerns are resolved.

1.2.1.5.3. The concerned AFOSI Region Commander or the head of another criminal investigative agency will inform SAF/GCQ immediately, in writing, when those initial concerns have subsided.

1.2.1.6. SAF/GCQ will not normally open a remedies plan based upon AFOSI preliminary inquiries. Such inquiries are designated Case Type 558 by AFOSI.

1.2.1.7. The installation SJA will approve each initial remedies plan, and all subsequent updated plans.

#### 1.2.2. Updating of remedies plans:

1.2.2.1. Except as provided for in 1.2.2.2, installation AFCs will submit updated remedies plans for each significant procurement fraud case to SAF/GCQ through their MAJCOM, FOA, or DRU AFC within 6 months of the suspense date for the last remedies plan unless otherwise directed by SAF/GCQ.

1.2.2.2. Installation AFCs will submit an updated plan to SAF/GCQ through their MAJCOM, FOA, or DRU AFC within 30 working days of any of the following:

1.2.2.2.1. Indictment or conviction of the remedies plan subject.

1.2.2.2.2. Suspension or debarment of the remedies plan subject.

1.2.2.2.3. Congressional inquiry concerning the investigation being reported in the remedies plan.

1.2.2.2.4. Any other event which SAF/GCQ; the concerned MAJCOM, FOA, or DRU AFC; or the installation AFC deems significant enough to warrant an early update.

1.2.2.3. Updated remedies plan will contain all information previously reported.

1.2.2.4. The installation AFC will underline or otherwise highlight all new or updated information in each remedies plan.

1.2.2.5. Updated remedies plans will address all concerns previously raised by SAF/GCQ, SAF/AQCX, or the concerned MAJCOM, FOA, or DRU AFC in response to the last plan.

#### 1.2.3. Closure of remedies plans:

1.2.3.1. SAF/GCQ has the sole authority to close remedies plans.

1.2.3.2. SAF/GCQ will close a remedies plan only after the exhaustion and monitoring through completion of all applicable criminal, civil, contractual, and administrative remedies, including suspension and debarment.

1.2.3.3. SAF/GCQ will provide written notification of the closure of a remedies plan to AFOSI and the concerned MAJCOM, FOA, or DRU AFC, who will in turn provide such written notification to the concerned installation AFC.

1.2.4. Restrictions on the circulation of remedies plans.

1.2.4.1. The restrictive legend shown in attachment 3 will appear in bold type on each page of a remedies plan.

1.2.4.2. SAF/GCQ must approve any circulation of a remedies plan outside the Air Force. Before making this determination, SAF/GCQ will consult the concerned MAJCOM, FOA, or DRU AFC, DoJ, and AFOSI.

## Chapter 2

### **QUITAM LITIGATION**

#### **2.1. SAF/GCQ.** SAF/GCQ will:

- 2.1.1. Serve as the central authority for receiving, coordinating, and responding to inquiries from within and outside the Air Force in all qui tam actions involving the Air Force, except as provided for in 2.2 and 2.5.1.
- 2.1.2. Provide to DoJ on behalf of the Air Force all recommendations concerning intervention by the government, and settlement, amendment, or dismissal of all qui tam actions involving the Air Force with copies to the concerned MAJCOM, FOA, or DRU AFC and AFOSI.
- 2.1.3. Coordinate with the DLA Office of General Counsel if the qui tam action involves Air Force contracts administered by DLA.

#### **2.2. The Office of the Assistant General Counsel of the Air Force for Contractor Responsibility (SAF/GCR).** SAF/GCR will respond directly to all inquiries from within and outside the Air Force relating to suspension or debarment of a defendant in any qui tam action involving the Air Force.

#### **2.3. MAJCOM, FOA, and DRU AFCs.** MAJCOM, FOA, and DRU AFCs will:

- 2.3.1. Provide legal reviews and recommendations concerning intervention or settlement of all qui tam actions which involve their installations or facilities when requested by SAF/GCQ.
  - 2.3.1.1. Such recommendations will include the following elements:
    - 2.3.1.1.1. A detailed assessment of whether any of the relator's allegations have merit, including the findings of investigators, auditors, program officials, and contracting personnel, if applicable.
    - 2.3.1.1.2. An assessment of whether the government incurred damages as a result of the defendant's misconduct and an explanation of that assessment.
    - 2.3.1.1.3. A quantification of any damages incurred by the government as a result of the defendant's misconduct and an explanation of that quantification.
  - 2.3.1.2. Such recommendations should include input from each of the following, if applicable:
    - 2.3.1.2.1. Lead investigative agent.
    - 2.3.1.2.2. Affected program office.
    - 2.3.1.2.3. DLA Fraud Counsel.
    - 2.3.1.2.4. Contracting officer.
    - 2.3.1.2.5. DCAA.
- 2.3.2. Inform SAF/GCQ immediately if an extension of the government intervention deadline is necessary to provide a meaningful legal review and recommendation concerning intervention.
- 2.3.3. Inform SAF/GCQ immediately if new information is discovered which supports a relator's allegations in cases where the government has already declined to intervene.

## **2.4. Installation AFCs.** Installation AFCs will:

2.4.1. Provide legal reviews and recommendations concerning intervention or settlement of all qui tam actions involving their respective installations, programs, or facilities when requested by their MAJCOM, FOA, or DRU AFC.

2.4.1.1. Such recommendations will include the following elements:

2.4.1.1.1. A detailed assessment of whether any of the relator's allegations have merit, including the findings of investigators, auditors, program officials, and contracting personnel, if applicable.

2.4.1.1.2. An assessment of whether the government incurred damages as a result of the defendant's misconduct and an explanation of that assessment.

2.4.1.1.3. A quantification of any damages incurred by the government as a result of the defendant's misconduct and an explanation of that quantification.

2.4.1.2. Such recommendations should include input from each of the following, if applicable:

2.4.1.2.1. Lead investigative agent.

2.4.1.2.2. Affected program office.

2.4.1.2.3. DLA Fraud Counsel.

2.4.1.2.4. Contracting officer.

2.4.1.2.5. DCAA.

2.4.2. Inform their MAJCOM, FOA, or DRU AFC immediately if an extension of the government intervention deadline is necessary to provide a meaningful legal review and recommendation concerning intervention.

2.4.3. Inform their MAJCOM, FOA, iscovered after providing a legal review or recomor DRU AFC immediately if new information is dmendation pursuant to 2.4.1.

## **2.5. AFOSI.** AFOSI will:

2.5.1. Respond directly to requests from DoJ and DoD/IG for investigative support concerning all qui tam actions involving the Air Force.

2.5.2. Provide the following information, in addition to the elements set forth in 1.2.1.1.1, in each CSR prepared for qui tam actions:

2.5.2.1. Court docket number.

2.5.2.2. Date the qui tam seal was lifted, if applicable.

2.5.3. Advise MAJCOM, FOA, and DRU AFCs and installation AFCs in formulating recommendations concerning intervention or settlement of qui tam actions.

## Chapter 3

### LITIGATION REQUESTS OF PRIVATE PARTIES IN QUI TAM ACTIONS INVOLVING THE AIR FORCE IN WHICH THE GOVERNMENT DECLINED TO INTERVENE

**3.1. Official Information.** Private qui tam litigants will have reasonable and impartial access to official information during discovery in cases involving the Air Force in which the government declined to intervene, unless that information is classified, privileged, or otherwise protected from public disclosure.

**3.2. Requesting Information.** The private qui tam litigant requesting such release of official information or testimony from Air Force personnel must set forth, in writing, the specific nature and relevance of the information or testimony sought.

**3.3. Discovery Request.** Any Air Force organization that receives a discovery request from private qui tam litigants for official information or testimony will immediately forward the request to SAF/GCQ for approval and forward an information copy of the request to the concerned MAJCOM, FOA, or DRU AFC.

**3.4. Consultation.** After consultation with DoJ, AFOSI, and the concerned installation AFC, SAF/GCQ will determine whether official information is released, whether Air Force personnel may appear and testify as witnesses in such litigation or be interviewed or contacted pursuant to such litigation, and whether any conditions are imposed concerning such release, appearance, or contact.

**3.5. Types of Factors.** In determining whether to approve such requests, SAF/GCQ will consider the following types of factors:

3.5.1. Whether the request is unduly burdensome or otherwise inappropriate under the applicable court rules.

3.5.2. Whether the disclosure or testimony is appropriate under the rules of procedure governing the case in which the request arose.

3.5.3. Whether the disclosure or testimony would violate a statute, executive order, regulation, or directive.

3.5.4. Whether the disclosure or testimony is appropriate or necessary under the relevant substantive law concerning privilege.

3.5.5. Whether the disclosure or testimony would constitute an unauthorized release of classified information.

3.5.6. Whether the disclosure or testimony would interfere with or undermine an ongoing enforcement proceeding, compromise constitutional rights, reveal trade secrets or similarly confidential commercial or financial information, or otherwise be inappropriate under the circumstances.

**3.6. SAF/GC Approval.** Air Force personnel will only produce, disclose, release, comment upon, or testify concerning those matters approved by SAF/GCQ in writing.

**3.7. Authorization.** Air Force personnel will not provide opinion or expert testimony including, but not limited to, the issues of liability or causation, concerning official DoD information, subjects, or activities unless authorized to do so by SAF/GCQ in writing.

**3.8. Official Information.** Air Force personnel must consult with the concerned installation AFC before providing any statements or releasing any official information to private qui tam litigants.

## Chapter 4

### VOLUNTARY DISCLOSURE CASES

#### **4.1. SAF/GCQ.** SAF/GCQ will:

- 4.1.1. Serve as the central authority for the Air Force to receive, coordinate, and respond to inquiries from within and outside the Air Force in all voluntary disclosure cases involving the Air Force, except as provided for in 4.2 and 4.5.1.
- 4.1.2. Provide to DoJ on behalf of the Air Force all recommendations concerning the settlement of voluntary disclosure cases involving the Air Force with copies to the affected MAJCOM, FOA, or DRU AFC and AFOSI.

**4.2. Inquiries.** SAF/GCR will respond directly to all inquiries from within and outside the Air Force relating to suspension or debarment of a contractor in all voluntary disclosure cases involving the Air Force.

**4.3. Voluntary Disclosure Cases.** MAJCOM, FOA, and DRU AFCs will provide legal reviews and recommendations concerning settlement of all voluntary disclosure cases which involve their installations or facilities when requested by SAF/GCQ. Such recommendations should include input from each of the following, if applicable:

- 4.3.1. Lead investigative agent.
- 4.3.2. Affected program office.
- 4.3.3. DLA Fraud Counsel.
- 4.3.4. Contracting officer.
- 4.3.5. DCAA.

**4.4. Reviews and Recommendations.** Installation AFCs will provide legal reviews and recommendations concerning settlement of all voluntary disclosure cases which involve their installations, programs, or facilities when requested by their MAJCOM, FOA, or DRU AFC. Such recommendations should include input from each of the following, if applicable:

- 4.4.1. Lead investigative agency.
- 4.4.2. Affected program office.
- 4.4.3. DLA Fraud Counsel.
- 4.4.4. Contracting officer.
- 4.4.5. DCAA.

#### **4.5. AFOSI.** AFOSI will:

- 4.5.1. Respond directly to requests from DoJ and other investigative agencies for investigative support in all voluntary disclosure cases involving the Air Force.

4.5.2. Advise MAJCOM, FOA, and DRU AFCs in formulating recommendations concerning settlement of voluntary disclosure cases.



## **Chapter 5**

### **PROGRAM FRAUD CIVIL REMEDIES ACT CASES**

#### **5.1. Responsibilities and Authorities:**

5.1.1. The Office of the Undersecretary of the Air Force (SAF/US) will:

5.1.1.1. Serve as the Air Force Authority Head in all cases brought under the Program Fraud Civil Remedies Act of 1986 (PFCRA), Title 31, United States Code (U.S.C.) Sections 3801-3812..

5.1.1.2. Establish procedures for the conduct of all PFCRA administrative hearings.

5.1.1.3. Serve as the final authority in all appeals of decisions by Presiding Officers.

5.1.1.4. Approve or reject any offers of settlement or compromise in PFCRA cases involving the Air Force after the date on which the Presiding Officer renders an initial decision, except as provided for in DoD Directive 5505.5, section TT.

5.1.2. The Office of the General Counsel of the Air Force (SAF/GC) will:

5.1.2.1. Advise and assist SAF/US in fulfilling its responsibilities as the Authority Head for the Air Force.

5.1.2.2. Obtain Presiding Officers as needed for hearings in PFCRA cases involving the Air Force.

5.1.3. SAF/GCQ will serve as the Air Force Reviewing Official for all PFCRA cases involving fraud on procurement contracts. As such, SAF/GCQ will:

5.1.3.1. Determine if adequate evidence of liability under PFCRA exists.

5.1.3.2. Approve or reject any offer of settlement or compromise in PFCRA cases involving the Air Force prior to the date on which the Presiding Officer makes an initial decision.

5.1.4. The Office of the Assistant General Counsel of the Air Force for Civilian Personnel and Fiscal Law (SAF/GCA) will serve as the Air Force Reviewing Official for all PFCRA cases involving fraud by civilian Air Force employees. As such, SAF/GCA will:

5.1.4.1. Determine if adequate evidence of liability under PFCRA exists.

5.1.4.2. Approve or reject any offer of settlement or compromise in PFCRA cases involving the Air Force prior to the date on which the Presiding Officer makes an initial decision.

5.1.5. The Office of the Assistant General Counsel of the Air Force for Military Affairs (SAF/GCM) will serve as the Air Force Reviewing Official for all PFCRA cases involving fraud by military Air Force employees. As such, SAF/GCM will:

5.1.5.1. Determine if adequate evidence of liability under PFCRA exists.

5.1.5.2. Approve or reject any offer of settlement or compromise in PFCRA cases involving the Air Force prior to the date on which the Presiding Officer makes an initial decision.

5.1.6. DoD/IG:

5.1.6.1. Serves as the Investigating Official in all PFCRA cases.

5.1.6.2. Conducts an investigation of all alleged PFCRA violations involving the Air Force.

5.1.6.3. Reports all findings and conclusions from such investigations to the Air Force Reviewing Official.

5.1.7. The Office of the Air Force Judge Advocate General (HQ USAF/JA) will appoint an Air Force Representative for each case referred to the Air Force Reviewing Official by the Investigating Official. The Air Force Representative will:

5.1.7.1. Review and summarize the evidence for each case referred to the Air Force Reviewing Official by the Investigating Official.

5.1.7.2. Provide a recommendation to the Air Force Reviewing Official as to whether adequate evidence of liability under PFCRA exists.

5.1.7.3. If the Air Force Reviewing Official finds that adequate evidence of liability under PFCRA exists, draft a complaint for the signature of the Reviewing Official.

5.1.7.4. Pursue all cases before a Presiding Officer including, but not limited, to the following tasks:

5.1.7.4.1. Filing of all pleadings.

5.1.7.4.2. Conducting discovery.

5.1.7.4.3. Presenting evidence at the hearing.

5.1.7.5. Negotiate all settlements or compromises on behalf of the Air Force prior to the date of the Presiding Officer's initial decision, subject to the approval of the Air Force Reviewing Official.

5.1.8. MAJCOM, FOA, and DRU commanders will provide recommendations, documents, witnesses, and assistance, including funding for temporary duty, travel, and support, as needed by the Air Force Reviewing Official and the Air Force Representative to fulfill their respective functions.

## **5.2. Procedures:**

5.2.1. Upon receipt of a PFCRA case from the Investigating Official, the Air Force Reviewing Official will prepare a case file and forward the matter to the Air Force Representative for review.

5.2.2. The Air Force Representative will review the case file, summarize the evidence, prepare a recommendation as to whether adequate evidence of liability under PFCRA exists, and return the case file to the Air Force Reviewing Official.

5.2.3. The Air Force Reviewing Official will review the case file and the recommendation provided by the Air Force Representative in order to determine whether adequate evidence of liability under PFCRA exists.

5.2.3.1. If the Air Force Reviewing Official determines that adequate evidence of liability under PFCRA exists and that the case is worth pursuit, he or she will provide written notice of the intention to issue a complaint to the PFCRA designee within DoJ.

5.2.3.2. If the Air Force Reviewing Official determines that the case is not worth pursuit, he or she will so inform DoD/IG.

5.2.4. Upon receipt of approval to proceed from the PFCRA designee within DoJ, the Air Force Reviewing Official will instruct the Air Force Representative to draft a complaint.

- 5.2.5. The Air Force representative will forward the complaint to the Air Force Reviewing Official for signature and service upon the defendant.
- 5.2.6. After serving the complaint, SAF/GC will select a Presiding Officer under 5 U.S.C., Chapter 33, pursuant to the competitive examination process applicable to administrative law judges.
- 5.2.7. If the defendant answers the complaint within 30 days of service, the Air Force Reviewing Official will file the complaint and answer with the Presiding Officer.
- 5.2.8. If the defendant does not answer the complaint within 30 days of service, the Air Force Reviewing Official may file the complaint with the Presiding Officer.
- 5.2.9. The Air Force Representative will maintain all contacts with the defendant and Presiding Officer concerning the litigation of the case and settlement negotiations.
- 5.2.10. The Air Force Representative will refer to the Air Force Reviewing Official all offers of settlement or compromise made prior to the Presiding Officer's initial decision.
- 5.2.11. The Air Force Reviewing Official has the sole authority to accept or reject any offer of settlement or compromise prior to the date on which the Presiding Officer renders an initial decision.
- 5.2.12. The Air Force Authority Head (SAF/US) will review all appeals of a Presiding Officer's decision.
- 5.2.13. SAF/GC will provide a copy of the defendant's appeal of the Presiding Officer's decision to the Air Force Representative, who may submit a brief in opposition.
- 5.2.14. To assist in deciding an appeal of the Presiding Officer's decision, SAF/GC will provide the following to SAF/US:
- 5.2.14.1. The decision of the Presiding Officer.
  - 5.2.14.2. The notice of appeal.
  - 5.2.14.3. The record of the proceeding before the Presiding Officer.
  - 5.2.14.4. Any brief in opposition to the appeal.
  - 5.2.14.5. Any advice or recommendation deemed appropriate.
- 5.2.15. After the Air Force Authority Head makes a decision on the appeal, SAF/GC will prepare a document reflecting that decision for the signature of SAF/US and serve notice of the decision to the parties.
- 5.2.16. The Air Force Authority Head has the sole authority to accept or reject any offer of settlement or compromise after the date on which the Presiding Officer renders an initial decision, except as provided for by DoD Directive 5505.5, Section TT.

## Chapter 6

### SUSPENSION AND DEBARMENT

#### 6.1. Responsibilities and Authorities:

6.1.1. SAF/GCR will serve as the Air Force Suspension and Debarment Official. As such, SAF/GCR will:

6.1.1.1. Consider in a timely manner all Air Force cases recommending the suspension or debarment of contractors or individuals.

6.1.1.2. Coordinate with all appropriate federal departments, agencies, and organizations before taking any suspension or debarment action against a contractor or individual.

6.1.1.3. Serve as the final authority for the Air Force in assessing and entering into an administrative agreement with a contractor or individual in lieu of suspension or debarment.

6.1.1.4. Provide SAF/GCQ with timely results in all Air Force suspension and debarment actions.

**6.2. SAF/AQC.** The Office of the Deputy Assistant Secretary for Contracting (SAF/AQC), Assistant Secretary of the Air Force for Acquisition will provide SAF/GCR, upon request, with program or contracting information necessary to clarify issues in any suspension or debarment case and inform SAF/GCR of any program concerns implicated by potential suspension or debarment of a contractor or individual.

**6.3. Comments and Recommendations.** MAJCOM, FOA, and DRU AFCs will review all reports recommending suspension or debarment of a contractor or individual and provide timely comments and recommendations to SAF/GCR concerning each report.

#### 6.4. Installation AFCs. Installation AFCs will:

6.4.1. Assist contracting officers in the preparation of timely reports in accordance with this Instruction; Federal Acquisition Regulation (FAR) Subpart 9.4, *Debarment, Suspension, and Ineligibility*, current edition; Defense FAR Supplement (DFARS) Subpart 209.4, *Debarment, Suspension, and Ineligibility*, current edition; and Air Force FAR Supplement (AFFARS) Subpart 5309.4, *Debarment, Suspension, and Ineligibility*, current edition, recommending suspension or debarment of a contractor or individual.

6.4.2. Forward each report recommending suspension or debarment of a contractor or individual to SAF/GCR.

6.4.3. Forward a copy of each report recommending suspension or debarment of a contractor or individual to the cognizant MAJCOM, FOA, or DRU AFC and Chief of Contracting for review, comment, and recommendation.

#### 6.5. AFOSI. AFOSI will:

6.5.1. Advise contracting officers in preparing reports recommending suspension or debarment of a contractor.

6.5.2. Obtain documentary or testimonial evidence, including releasable summaries of investigation and certified copies of criminal or civil action against the contractor, which is needed by the contracting officer, installation AFC, or SAF/GCR in any suspension or debarment action.

6.5.3. Inform SAF/GCR of any investigative concerns implicated by the potential suspension or debarment of a contractor.

## Chapter 7

### SAFETY ALERTS

**7.1. Potential Hazard.** AFOSI will provide all information concerning a potential hazard to flight or product safety to SAF/GCQ for informational purposes and to the Air Force Safety Agency for a safety determination.

**7.2. Notifications.** SAF/GCQ will forward all notifications of potentially defective products involving Air Force programs and weapon systems from DoD/IG to the Air Force Materiel Command Directorate of Safety (HQ AFMC/SES) with a copy to the Technical Projects Division of the Air Force Materiel Command Directorate of Engineering and Technical Management (HQ AFMC/ENP).

**7.3. HQ AFMC/SES.** HQ AFMC/SES will forward all such notifications to the Air Force Safety Agency for a determination as to whether the alleged product defect presents a serious threat to the safety or health of Air Force personnel.

**7.4. Alleged Product Defect.** The Air Force Safety Agency will determine whether the alleged product defect presents a serious threat to the safety or health of Air Force personnel.

7.4.1. The Air Force Safety Agency will report its determinations to SAF/GCQ, AFOSI, and HQ AFMC/SES.

7.4.2. If the Air Force Safety Agency determines that the alleged product defect presents a serious threat to the safety or health of Air Force personnel, HQ AFMC/SES will ensure that a safety alert is sent to the Government-Industry Data Exchange Program (GIDEP) with a copy of that alert to SAF/GCQ and AFOSI.

7.4.3. Upon receipt of the safety alert, SAF/GCQ will open a remedies plan for the matter.

**7.5. Determinations.** SAF/GCQ will report the Air Force Safety Agency's determinations to DoD/IG.

## Chapter 8

### PROCUREMENT FRAUD-RELATED EDUCATION

#### **8.1. SAF/GCQ.** SAF/GCQ will:

8.1.1. Coordinate as needed with AETC to ensure that procurement fraud-related education and training opportunities exist for Air Force personnel.

8.1.2. Assist MAJCOM, FOA, and DRU commanders, AFOSI, and other federal departments and agencies in providing procurement fraud-related education.

#### **8.2. Education and Training.** MAJCOM, FOA, and DRU commanders will ensure annually that personnel under their command have adequate education and training in procurement fraud matters.

GILBERT F. CASELLAS  
The General Counsel

## **Attachment 1**

### **GLOSSARY OF ABBREVIATIONS, ACRONYMS, AND TERMS**

#### ***Section A--Abbreviations and Acronyms Used***

**AETC**—Air Education and Training Command

**AFC**—Acquisition Fraud Counsel

**AFFARS**—Air Force FAR Supplement

**AF/JA**—Office of the Air Force Judge Advocate General

**AFMC/ENP**—Air Force Materiel Command Directorate of Engineering and Management (Technical Projects Division)

**AFMC/SES**—Air Force Materiel Command Directorate of Safety

**AFOSI**—Air Force Office of Special Investigations

**ASBCA**—Armed Services Board of Contract Appeals

**AUSA**—Assistant United States Attorney

**CAGE**—Contractor and Government Entity

**CSR**—Case Status Report

**DCAA**—Defense Contract Audit Agency

**DFARS**—Defense FAR Supplement

**DLA**—Defense Logistics Agency

**DoD**—Department of Defense

**DoDD**—Department of Defense Directive

**DoD/IG**—Office of the Department of Defense Inspector General

**DoJ**—Department of Justice

**DRU**—Direct Reporting Unit

**FAR**—Federal Acquisition Regulation

**FOA**—Field Operating Agency

**GIDEP**—Government-Industry Data Exchange Program

**HQ**—Headquarters

**MAJCOM**—Major Command

**PFCRA**—Program Fraud Civil Remedies Act

**SAF/AQC**—Office of the Deputy Assistant Secretary for Contracting, Assistant Secretary of the Air Force for Acquisition

**SAF/AQCX**—Contract Support Division, Office of the Deputy Assistant Secretary for Contracting, Assistant Secretary of the Air Force for Acquisition



**SAF/GC**—Office of the Air Force General Counsel

**SAF/GCA**—Office of the Assistant Air Force General Counsel for Civilian Personnel and Fiscal Affairs

**SAF/GCM**—Office of the Assistant Air Force General Counsel for Military Affairs

**SAF/GCQ**—Office of the Assistant Air Force General Counsel for Acquisition

**SAF/GCR**—Office of the Assistant Air Force General Counsel for Contractor Responsibility

**SAF/IGQ**—Air Force Office of Complaints, Remedies, and Oversight

**SAF/US**—Office of the Under Secretary of the Air Force

**SJA**—Staff Judge Advocate

**U.S.C.**—United States Code

### ***Section B--Definitions of Key Terms***

**Acquisition Fraud Counsel (AFC)**—An Air Force attorney appointed by the cognizant Staff Judge Advocate to assist in the management, oversight, and operation of the procurement fraud remedies program for his or her command, installation, or program.

**Air Force Personnel**—Present and former United States Air Force military personnel; United States Air Force Academy cadets; present and former civilian employees of the Department of the Air Force, including nonappropriated fund activity employees; and non-United States nationals who perform services overseas under the provision of status of forces agreements for the United States Air Force.

**Air Force Representative**—Person assigned by HQ USAF/JA to conduct litigation on behalf of the Air Force in all cases in which the Reviewing Official determines that there is adequate evidence of liability under PFCRA.

**Authority Head**—Person who promulgates procedures for the conduct of administrative hearings and serves as the final authority for all appeals in PFCRA cases.

**Debarment**—Action taken by a Debarring Official under FAR Subpart 9.4 to exclude a contractor from government contracting or government-approved subcontracting for a reasonable, specified period; a contractor so excluded is "debarred."

**Fraud**—Any intentional deception by an individual, corporation, partnership, or other entity which seeks to unlawfully deprive the Air Force of something of value or to secure from the Air Force a benefit, privilege, allowance, or consideration for which there is no entitlement.

**Installation**—An Air Force Base, Station, Center, other fixed location, or center as designated by a MAJCOM, FOA, or DRU. This definition includes Air Force Materiel Command product centers.

**Hold**—Status of a significant procurement fraud case when a remedies plan is not opened immediately because of operational security reasons raised in writing by the concerned AFOSI Region Commander or the head of another criminal investigative agency.

**Investigating Official**—Person designated to investigate cases of alleged liability under PFCRA and to report all findings and conclusions of such investigations to the Reviewing Official.

**Official Information**—All information of any kind, however stored, that is in the custody or control of the Department of the Air Force, relates to information in the custody and control of the Air Force, or was

acquired by Air Force personnel as part of their official duties or because of their official status within the department while such personnel were employed by or worked on behalf of the department or on active duty with the Air Force.

**Presiding Officer**—Person employed by DoD or detailed to DoD from another agency who conducts a PFCRA case hearing.

**Qui Tam Action**—Suit filed under seal by a private party on behalf of the United States against a contractor alleging the submission of false claims to the government.

**Relator**—Person who files a qui tam action.

**Remedies**—Criminal, civil, contractual, and administrative actions that should be initiated by a commander or official having responsibility over a matter central to a significant procurement fraud case in order to protect the interests of the Air Force and to deter future incidents of fraudulent conduct.

**Remedies Plans**—Comprehensive, evolving plans prepared in accordance with this Instruction for pursuing all applicable remedies in significant procurement fraud cases. These plans are updated periodically to report new information and provide the status and success of all applicable remedies.

**Reviewing Official**—Person designated to determine if, based upon the findings and conclusions of the Investigating Official, there is adequate evidence of liability under PFCRA.

**Significant Procurement Fraud Cases**—Alleged or confirmed instances of criminal or civil misconduct by a government contractor or individual which satisfy one or more of the following criteria:

- All procurement-related fraud cases which involve an alleged or actual loss to the Air Force of \$100,000 or more.
- All corruption cases related to the Air Force procurement process, regardless of the dollar amount of loss involved. Corruption includes such fraudulent acts as conflicts of interest; the solicitation, offer, payment, or receipt of bribes, gratuities, kickbacks, or commissions; the unauthorized disclosure of procurement-related information; and collusion, bid rigging, price-fixing, or other anti-trust violations.
- All Air Force cases involving alleged or proven defective products or product substitution where the nature of the defect or substitution presents a serious hazard to health, safety, or operational readiness, regardless of the dollar amount of loss involved.
- All cases in which there is a significant Air Force interest as determined by SAF/GC. Such cases include, but are not limited to those involving a Congressional inquiry or substantial media attention.

**Suspension**—Action taken by a Suspending Official under FAR Subpart 9.4 to disqualify a contractor temporarily from government contracting and government-approved subcontracting; a contractor so disqualified is "suspended."

## **Attachment 2**

### **EXAMPLES OF CRIMINAL, CIVIL, CONTRACTUAL, AND ADMINISTRATIVE REMEDIES AVAILABLE IN RESPONSE TO EVIDENCE OF PROCUREMENT FRAUD**

#### **I. Criminal Remedies:**

- A. False Claims -- 18 U.S.C. § 287
- B. False Statements -- 18 U.S.C. § 1001
- C. Major Fraud Act -- 18 U.S.C. § 1031
- D. Mail Fraud -- 18 U.S.C. § 1341
- E. Wire Fraud -- 18 U.S.C. § 1343
- F. Conspiracy to Defraud -- 18 U.S.C. § 371
- G. Conspiracy to Defraud in Connection with Claims -- 18 U.S.C. § 286
- H. Racketeer Influenced and Corrupt Organizations -- 18 U.S.C. § 1961 et seq.
- I. Money Laundering -- 18 U.S.C. § 1956, et seq.
- J. Anti-Kickback Act -- 41 U.S.C. § 51, et seq.
- K. Bribery, Gratuities, and Conflicts of Interest -- 18 U.S.C. § 201-208
- L. Sherman Antitrust Act -- 15 U.S.C. § 1, et seq.
- M. Trade Secrets Act -- 18 U.S.C. § 1905
- N. Theft, Embezzlement, or Destruction of Public Money, Property, or Records -- 18 U.S.C. § 641
- O. Concealment of Assets -- 18 U.S.C. § 152
- P. Obstruction of Proceedings -- 18 U.S.C. § 1505
- Q. Obstruction of a Federal Audit -- 18 U.S.C. § 1516
- R. Falsification of Contractors' Bonds, Bids, and Public Records -- 18 U.S.C. § 494

#### **II. Civil Remedies:**

- A. False Claims Act -- 31 U.S.C. § 3729, et seq.
- B. Program Fraud Civil Remedies Act -- 31 U.S.C. § 3801, et seq.
- C. Anti-Kickback Act -- 41 U.S.C. § 51 et seq.
- D. Forfeiture of Claims under Contract Disputes Act -- 41 U.S.C. § 604
- E. Priority of Government Claims in Bankruptcy -- 31 U.S.C. § 3713

#### **III. Contractual and Administrative Remedies:**

- A. Termination for default
- B. Termination for convenience
- C. Termination for damages for gratuities
- D. Unilateral price reduction
- E. Deductive change order

- F. Revocation of acceptance
- G. Warranty or correction of defects
- H. Recovery of procurement costs
- I. Acceptance at a reduced price
- J. Rescission
- K. Reformation
- L. Withholding of payment
- M. Rejection of nonconforming supplies or services
- N. Disallowance of contract costs
- O. Suspension of progress payments
- P. First article disapproval and nonpayment of costs
- Q. Recovery of nonrecurring costs for commercial sales
- R. Stop work order
- S. Cure notice
- T. Show cause letter
- U. Issue quality deficiency report
- W. Liquidated damages
- X. Technical data challenges
- Y. Subcontract disapproval
- Z. Other contract clauses providing remedies
- AA. Suspension
- BB. Debarment
- CC. Truth in Negotiations Act -- 10 U.S.C. §§ 2306
- DD. Suspension of Payments -- 10 U.S.C. §§ 2307(e)
- EE. Revocation of forward pricing agreement
- FF. Refusal to employ fast pay procedures
- GG. Refusal to authorize certificate of conformance
- HH. Removal from qualified products list
- II. Removal from approved manufacturers list
- JJ. Heightened testing or inspection requirements
- KK. Closer surveillance
- LL. Termination of employment
- MM. Recoupment of the value of any bribe or gratuity
- NN. Revocation of a contracting officer's warrant

**Attachment 3**  
**REMEDIES PLAN FORMAT**

**SECTION I. ADMINISTRATIVE DATA**

- A. Date of plan:
- B. Status of plan:
  - 1. Initial or update (if "update," include revision number)
  - 2. Closure recommended?
  - 3. If "no," suspense date for next update:
- C. Case number:
- D. Investigative support
  - 1. Lead investigative agency:
  - 2. Other investigative agencies involved:
  - 3. Date of most recent case report on which this plan is based:
  - 4. Name and telephone number of principal case agent:
- E. Subject(s) of allegation (include corporate name, corporate divisions, and individuals, if applicable):

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- F. Government officials involved in plan preparation:
  - 1. Responsible commander and office symbol:
  - 2. Name, telephone number, and office symbol of Acquisition Fraud Counsel:
  - 3. Responsible MAJCOM:
  - 4. Name, telephone number, and office symbol of DLA/DPRO attorney, if any:
  - 5. Name, telephone number, and office symbol of other government officials involved in plan preparation:
- G. Contract administrative data:
  - 1. Contract number(s):
  - 2. Type of contract:
  - 3. Dollar amount of contract:
  - 4. Period of contract:
  - 5. Phase of contract in which alleged wrongdoing took place:  
[ ] Contract formation                      [ ] Contract performance
  - 6. Location where alleged offense took place:
  - 7. Contractor CAGE code:

H. Audit support

1. Audit agency involved, if any:
2. Name and telephone number of principal auditor:

I. Cases arising out of Qui Tam actions

1. Is the case under seal? If so, explain what information is subject to the seal:
2. Name of relator(s):

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**SECTION II: ALLEGATIONS AND ADVERSE IMPACT STATEMENT**

A. Allegations (as detailed as possible):

B. Adverse impact statement:

1. Affected weapons systems or programs:
2. Is impact contractor-wide or contract specific?
3. Estimated loss:

C. Name, telephone number, and office symbol of the Air Force Safety Center Official who has determined there is a serious hazard to health, safety, or operational readiness in defective product or product substitution cases:

**SECTION III: CONTRACT REVIEW**

A. List all contract violations which support pursuit of remedies. Include citations for the contract requirements (e.g., SOW, para IV(b), or MIL Q 9858A, para 4).

B. Name, telephone number, and office symbol of contracts attorney who performed the contract review:

C. Date of contract review completion:

**SECTION IV: POTENTIALLY APPLICABLE REMEDIES**

A. Criminal remedies:

1. Name and telephone number of AUSA responsible for criminal prosecution:
2. Has AUSA been briefed? If "no," why not?

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3. Has AUSA accepted the case for criminal prosecution? If "no," why not?

4. Did AFC accompany AFOSI when a criminal prosecutive decision was sought from AUSA? If "no," why not?

5. Potential criminal violations:

- |  |   |
|--|---|
| <input type="checkbox"/> False Claims, 18 U.S.C. § 287                                   | <input type="checkbox"/> The Major Fraud Act, 18 U.S.C. § 1031                            |
| <input type="checkbox"/> False Statements, 18 U.S.C. § 1001                              | <input type="checkbox"/> Mail Fraud, 18 U.S.C. § 1341                                     |
| <input type="checkbox"/> Wire Fraud, 18 U.S.C. § 1343                                    | <input type="checkbox"/> Money Laundering, 18 U.S.C. § 1956                               |
| <input type="checkbox"/> Conspiracy to Defraud, 18 U.S.C. § 371                          | <input type="checkbox"/> Anti-Kickback Act, 41 U.S.C. § 51                                |
| <input type="checkbox"/> Bribery, Gratuities, Conflicts of Interest, 18 U.S.C. § 201-208 | <input type="checkbox"/> Conspiracy to Defraud in Connection with Claims, 18 U.S.C. § 286 |
| <input type="checkbox"/> Other (Specify):  |   |

B. Civil remedies:

1. Name and telephone number of AUSA responsible for civil prosecution:
2. Has AUSA been briefed? If "no," why not?
3. Has AUSA accepted the case for civil prosecution? If "no," why not?
4. Did AFC accompany AFOSI when a civil prosecutive decision was sought from AUSA? If "no," why not?

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5. Potential civil violations:

- |  |  |
|--|--|
| <input type="checkbox"/> False Claims 31 U.S.C. § 3729 | <input type="checkbox"/> PFCRA, 31 U.S.C. § 3801 |
| <input type="checkbox"/> Other (Specify):              |  |

C. Contractual remedies:

1. What potentially applicable remedy-granting clauses are in the affected contract (include clause number and date, if applicable):
2. Are these clauses being invoked? If "no," why not?
3. Identify any potentially applicable common law contract remedies:
4. Has the subject contractor submitted any claims against the Air Force which overlap the subject matter of this remedies plan? If so, explain the overlap, state whether a final decision was issued, and provide the ASBCA or Court of Federal Claims docket number:

D. Administrative remedies:

1. Has a suspension or debarment package been prepared? If "no," why not? If "yes," assess the adverse mission impact, if any, if the subject is subsequently suspended or debarred.
2. Identify any other viable administrative remedies. Are they being pursued? If "no," why not?

**SECTION V: MISCELLANEOUS COMMENTS AND INFORMATION** (include copies of relevant documents)

- A. Indictments (identify by subject):
- B. Convictions (identify by subject):

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- C. Criminal sentences (identify for each subject):
- D. Civil recoveries (identify by subject and include amounts and applicable funding citations):
- E. Contractual/administrative recoveries (identify by subject, action taken, and amount of recovery):
- F. Suspension (identify by subject):
- G. Debarment (identify by subject and include period of debarment):
- H. Congressional inquiries:
- I. Significant media attention:
- J. Other relevant information:

**SECTION VI. REMEDIES PLAN PARTICIPANTS**

Name	Grade	Organization	Telephone No.
Acquisition			
Fraud Counsel			
Contracting Officer			
Investigative Agent			

[These are the minimum essential remedies plan participants. Other plan participants, if any, should also be included].

[SIGNED] Staff Judge Advocate



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2 Atch's [at a minimum]

1. Lead investigative agent's most current Case Status Report or investigative summary [to be distributed only through legal and investigative channels]
2. Matching of criminal and civil offense elements to evidence produced to date [to be distributed only through legal and investigative channels]

## **SECTION VII: MAJCOM COORDINATION AND COMMENTS**

[MAJCOM, FOA, or DRU Acquisition Fraud Counsels should include specific feedback concerning the overall quality of the submitted plan, including requests for clarification or additional information for appropriate action or consideration in the next plan update].

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